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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,221	03/22/2004	Taizou Oonishi	204552032300	9120

7590 01/27/2006

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EXAMINER	
REIS, TRAVIS M	

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/805,221	OONISHI, TAIZOU
	Examiner	Art Unit
	Travis M. Reis	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 November 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application Nos. 10/805228, 10/805244, & 10/805250. Although the conflicting claims are not identical, they are not patentably distinct from each other because the device described in claim one can meet the limitations of the other applications.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6, & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Yura et al. (U.S. Patent 6795678).

Yura et al. discloses a belt-type fixing device (14) in Figures 4 & 5 comprising an endless-sheet-like fixing belt (15) to be heated wound around a heating roller (16) and around a nip (L1) forming member (19) that is fixed in a downstream position away from the larger diameter heating roller so as to be incapable of rotating, and a secondary nip (L2) forming member (18), and a pressurizing roller (17) with elasticity which can be driven to rotate, which is in pressure contact with the nip forming member with the fixing belt interposed between (Figure 5), and of which part in contact with the fixing belt forms a fixing nip, wherein a surface of the nip forming member that is opposite to the pressurizing roller is configured as a curved surface extending along an outer circumferential surface of the pressurizing roller so that a pressure distribution in the fixing nip is made generally flat with respect to a paper feeding direction, the fixing belt is rotated while being slid on the nip forming member by rotational drive of the pressurizing roller, and contact area between the fixing belt and the nip forming member outside the fixing nip is smaller on an entrance side of the fixing nip than on an exit side of the fixing nip (Figure 4).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims

was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 4 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yura et al.

With reference to claim 4, Yura et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1, 2, 6, & 7, including a pre-fixation guide (Figure 5) for guiding introduction of the recording medium (S) into the fixing nip.

Yura et al. do not disclose an angle which the pre-fixation guide formed with the fixing belt on the entrance side of the fixing nip is in a range from 30^0 to 70^0. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a pre-fixation guide having an angle in the range of 30^0 to 70^0, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range" involves only routine skill in the art. ***In re Aller***, 105 USPQ 233. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the pre-fixation guide disclosed by Yura et al. have an angle of 30^0 to 70^0 in order to allow papers of different thickness into the nip.

With reference to claim 5, Yura et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1, 2, 6, & 7, but do not disclose a distance between the pre-fixation guide and a parallel line extending from the contact point of the nip forming member and the fixing belt is 3 mm. However, to choose a 3 mm distance between the two lines, absent any criticality, is only considered to be the " optimum " value of the distance between the two lines, as stated above, that a person having ordinary skill in the art would have been able to

determine using routine experimentation based, among other things, on the desired accuracy and since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See ***In re Boesch***, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the pre-fixation guide disclosed by Yura et al. be 3 mm distant from the parallel line in order to keep the paper from jamming.

8. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Yura et al. in view of Yasui et al. (U.S. Patent 6807386).

Yura et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1, 2, 6, & 7, but do not disclose the heating roller is lower than the nip forming member, in which a recording medium is vertically passed through the fixing nip.

Yasui et al. discloses a fixing device (2) and image forming apparatus with a heating roller (18) wound with a fixing belt (12) which is in a position lower than the nip forming member (24) wherein a recording medium (P) is passed vertically through the fixing nip (Figure 2). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to position the heating roller disclosed by Yura et al. in the manner of the lower position taught by Yasui in order to more efficiently heat the nip forming member.

Response to Arguments

9. In response to applicant's arguments that Yura does not disclose a contact area between the fixing belt and the nip forming member outside the fixing nip is smaller on an entrance side of the fixing nip than on an exit side of the fixing nip; these arguments have been fully considered but they are not persuasive since the nip forming member that is outside of the fixing nip, i.e. roller 18 has a smaller entrance side contact area than the exit side entrance area, as detailed above in paragraph 2.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis
Examiner
Art Unit 2859

Diego Gutierrez
Supervisory Patent Examiner
Tech Center 2800

tmr
January 23, 2006

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 6, & 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Yura et al. (U.S. Patent 6795678).

Yura et al. discloses a belt-type fixing device (14) in Figures 4 & 5 comprising an endless-sheet-like fixing belt (15) to be heated wound around a heating roller (16) and around a nip (L1) forming member (19) that is fixed in a downstream position away from the larger diameter heating roller so as to be incapable of rotating, and a secondary nip (L2) forming member (18), and a pressurizing roller (17) with elasticity which can be driven to rotate, which is in pressure contact with the nip forming member with the fixing belt interposed between (Figure 5), and of which part in contact with the fixing belt forms a fixing nip, wherein a surface of the nip forming member that is opposite to the pressurizing roller is configured as a curved surface extending along an outer circumferential surface of the pressurizing roller so that a pressure distribution in the fixing nip is made generally flat with respect to a paper feeding direction, the fixing belt is rotated while being slid on the nip forming member by rotational drive of the pressurizing roller, and contact area between the fixing belt and the nip forming member outside the fixing nip is smaller on an entrance side of the fixing nip than on an exit side of the fixing nip (Figure 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yura et al.

With reference to claim 4, Yura et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1, 2, 6, & 7, including a pre-fixation guide (Figure 5) for guiding introduction of the recording medium (S) into the fixing nip.

Yura et al. do not disclose an angle which the pre-fixation guide formed with the fixing belt on the entrance side of the fixing nip is in a range from 30^0 to 70^0. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a pre-fixation guide having an angle in the range of 30^0 to 70^0, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range" involves only routine skill in the art. ***In re Aller***, 105 USPQ 233. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the pre-fixation guide disclosed by Yura et al. have an angle of 30^0 to 70^0 in order to allow papers of different thickness into the nip.

With reference to claim 5, Yura et al. discloses all of the instant claimed invention as

stated above in the rejection of claims 1, 2, 6, & 7, but do not disclose a distance between the pre-fixation guide and a parallel line extending from the contact point of the nip forming member and the fixing belt is 3 mm. However, to choose a 3 mm distance between the two lines, absent any criticality, is only considered to be the " optimum " value of the distance between the two lines, as stated above, that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired accuracy and since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See ***In re Boesch***, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the pre-fixation guide disclosed by Yura et al. be 3 mm distant from the parallel line in order to keep the paper from jamming.

6. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Yura et al. in view of Yasui et al. (U.S. Patent 6807386).

Yura et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1, 2, 6, & 7, but do not disclose the heating roller is lower than the nip forming member, in which a recording medium is vertically passed through the fixing nip.

Yasui et al. discloses a fixing device (2) and image forming apparatus with a heating roller (18) wound with a fixing belt (12) which is in a position lower than the nip forming member (24) wherein a recording medium (P) is passed vertically through the fixing nip (Figure 2). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to position the heating roller disclosed by Yura et al. in the manner of the lower position taught by Yasui in order to more efficiently heat the nip forming member.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-3, 6, & 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 6-10 of copending Application No. 10/805228. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations claimed in claims 1-3, 6, & 7 of this application are present in clams 1, 2, 4, 6-10 of Application No. 10/805228.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1, 2, 6, & 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5-7, & 10-12 of copending Application No. 10/805244. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations claimed in claims 1, 2, 6, & 7 of this application are present in clams 1, 5-7, & 10-12 of Application No. 10/805244.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Claims 1, 2, 6, & 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 10-12, & 15 of copending Application No. 10/805250. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations claimed in claims 1, 2, 6, & 7 of this application are present in clams 1, 10-12, & 15 of Application No. 10/805250.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 4 & 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7 & 9 of copending Application No. 10/805228 in view of Yura et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 4 & 5 claim a device as stated in claims 7 & 9 of copending Application No. 10/805228. with the exception of an angle being in the range of 30-degrees to 70-degrees or a distance less than 3mm.

Yura et al. discloses an image forming apparatus that can be in said range and have said distance. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify the device claimed in claims 7 & 9 of copending Application No. 10/805221 with the range and distance as taught by Yura et al. in order to allow papers of different thickness into the nip.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

12. In response to applicant's arguments that Yura does not disclose a contact area between the fixing belt and the nip forming member outside the fixing nip is smaller on an entrance side of the fixing nip than on an exit side of the fixing nip; these arguments have been fully

considered but they are not persuasive since the nip forming member that is outside of the fixing nip, i.e. roller 18 has a smaller entrance side contact area than the exit side entrance area, as detailed above in paragraph 2.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

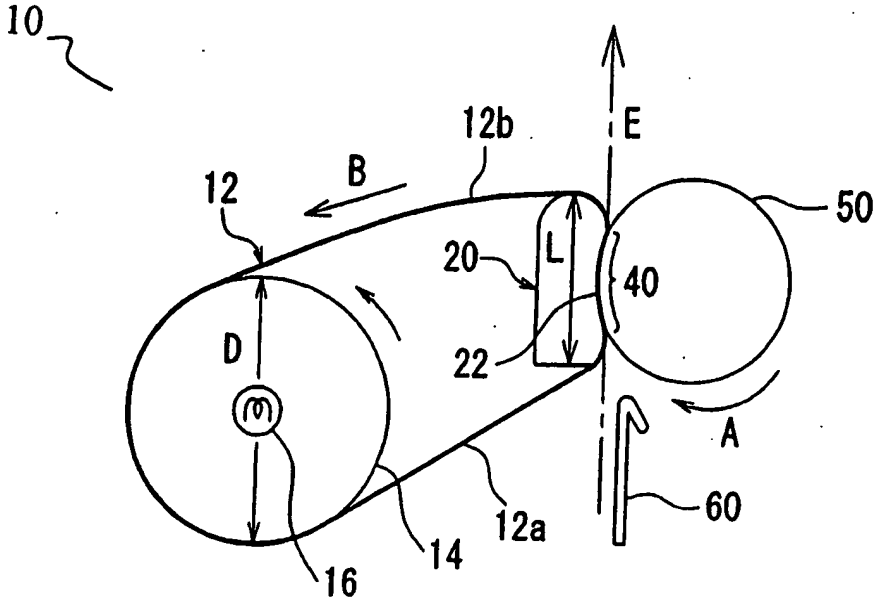
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis M Reis
Examiner
Art Unit 2859

Diego Gutierrez
Supervisory Patent Examiner
Tech Center 2800

tmr
January 23, 2006

Fig. 1



Approved
TMR 1/17/6